

BOARD OF SELECTMEN
MINUTES
JULY 10, 2006

Pursuant to notice duly filed with the Town Clerk, a meeting of the Board of Selectmen was held at 7:30 p.m. in the Selectmen's Room.

Present were Philip Benincasa, Chair pro tem; Anne D. Shapiro, Clerk pro tem and Gregory P. Howes. Also present was Douglas Meagher, Assistant Town Manager. Not present Virginia McIntyre and Margaret B. Briggs

ELECT CLERK PRO TEM:

On a motion duly made and seconded, it was unanimously:

VOTED: To elect Anne Shapiro as Clerk pro tem.

CONSENT AGENDA:

On a motion duly made and seconded, it was unanimously:

VOTED: To approve the consent agenda.

- Town Accountant's Warrant
- Gift Acceptance: First Parish in Concord, \$1,000 to the Restorative Justice Program
- Gift Acceptance: Patricia Cornwell, \$2,000 to the K-9 Unit Gift Account
- Gift Acceptance: JC Cannistraro, LLC, \$4,500, to the 2006 Concord Open Golf Tournament

TOWN MANAGER'S REPORT:

1. The Concord Public Works Summer Roads Program is moving along. Laws Brook Road, Cottage Lane, Hillside Avenue, Westford Road, Commerford Road have been grounded and now have received their binder coat of pavement. This week CPW is working in the Walden Street/Thoreau Street area to realign that Y intersection to a much safer T intersection so cutting is taking place. Some drainage will be relocated in preparation for that. Virginia Road and Old Bedford Road area will have the castings lowered and then the road will be ground before putting a binding coat on. During that part of the construction there will be some road closures.
2. The Fire Chief Ken Willette said they had responded to a call from the National Parks Service for an incendiary device which was thrown against the obelisk monument in the North Bridge area. The bottle was found broken Sunday morning but not ignited. The Chief said most of these devices don't ignite but it could have been very destructive if it had. The incident is under investigation by the Police and Fire Departments as well as the National Parks Service, but it was considered vandalism not a political protest. Where it is on federal property, if there is sufficient evidence to proceed with prosecution, the Federal Alcohol Tobacco and Firearms Bureau will be involved. At this time there are no suspects and no damage reported.

Clerk Pro Tem

Consent Agenda
Minutes

Town Manager's
Report

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Postings from FEMA regarding assistance were received for anyone who has experienced flood damage. This is available on line at FEMA's website, www.fema.gov, or for those requesting disaster assistance for flooding that began after May 12, 2006 by phone at 1-800-621-3321.

Ms. Shapiro said the Zoning Board of Appeals decision in regards to Our Lady's, was a conditional decision. She would like an update on whether or not the permits have been issued. It would appear they should not be issued because the conditions that are required have not been complied with yet. Mr. Meagher will be in touch with the Building Commissioner's office tomorrow regarding this.

COMMITTEE LIAISON REPORTS:

Liaison Reports

Strawberry Hill Land Sale:

Mr. Howes said there is a meeting tomorrow with Marcia Rasmussen and Mr. Meagher to get an update as to how many applicants asked for the RFP. Also there will be a discussion about conservation restriction and other issues. As many issues will be placed before the group as possible before having to evaluate individual proposals.

Our Lady's:

Ms. Shapiro said a question about what the Historic Preservation Restriction looks like at this date has arisen. An update will be coming so that it can be discussed at the next meeting of the Historical Commission. Mr. Meagher had exchanged emails with Ryan Pace, Town Counsel, this afternoon and he has updated drafts he will get to him.

CITIZEN COMMENTS:

Citizen
Comments

There were no citizen comments.

ELM PLACE DISCUSSION:

Elm Place
Discussion

A discussion was held on the proposed Chapter 40B development referred to as Elm Place at 1273 Elm Street. Mr. Meagher noted this is an anticipated response to a request from the Mass Housing Finance agency which received a project eligibility application from the applicant for the given location. In anticipation of the Selectmen's meeting, the planning department was asked to provide a preliminary review of the proposed comprehensive permit. The applicant would be Peter J. Livingstone, Trustee for the Stone Realty Trust, 73 Elm Street, Concord, MA.

The planning department identifies what relief would be required in order to provide a

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comprehensive permit:

- 1) **Section 4.2.1 Zoning Bylaws *Single family dwelling*** (no more than one dwelling unit shall be located upon a lot) The applicant is seeking a waiver from this requirement to build 8 units of housing within four structures on a lot zoned for single family use.
- 2) **Section 6 *Dimensional Regulations*** – Applicant seeks to waive minimum side yard setback (Zoning Bylaw (ZBL) subsection 6.2.7) and rear yard setback (ZBL subsection 6.2.8) requirements for town house units 2 through 8 and the two small storage structures. Fifteen feet is required for the side yard setback and thirty feet is required for the rear yard setback. Setbacks shown are variable, but as little as 5 feet is provided.

Additionally, the applicant is seeking a variance from the Concord Board of Health regulations 3.42 (G) (6) “reserve leaching trenches: to allow the reserve leaching trenches to be designed located between the primary leaching trenches provided.

The Board has until July 28th to send in written comment to Mass Housing. Mass Housing will issue a decision as to the acceptability of the site and general consistency of this development with the guidelines of the Housing Starts program.

Marcia Rasmussen has been asked to coordinate a full staff review that will include the Safety Officer, fire department and other key personnel to provide the Board with more information in anticipation of a more detailed discussion at the July 24 meeting.

Mr. Howes disclosed his insurance company presently insures Peter Livingstone at 1273 Elm Street. However, he has no connection to the development. Mr. Benincasa noted he lives nearby.

The Selectmen have received:

- The plan is on 1.01 acres of land. The anticipation is to retain the original house at 1273 Elm Street with a duplex to the left and two duplexes and the triplex behind will be within the same style and height as the original house.
- 15 total parking spaces
- The anticipation is to have 2 affordable units out of 8, or 7 new plus the original house. If owner occupied, the market presents a problem and a focus of the Town should be to make sure this is in perpetuity.

Terri Ackerman, Finance Committee, asked for an explanation of Chapter 40B.

Ms. Shapiro said whenever a 40B comes forward certain zoning requirements are suspended. Certain criteria by the state allows this to happen: 1) if the town hasn't reached

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its total of 10% total housing units making them low to moderate income units, 2) lower to moderate income units are located on sites which total 1.5% or more of the total development able land area in the town area zoned for residential, commercial, or industrial sites, 3) the application would result in the commencement of construction of such housing and sites comprising more than .3 of 1% of such land area or ten acres which ever is larger in any given year. Concord does not meet any of these criteria and the Board of Appeals has reviewed and approved only one other comprehensive permit application within the last twelve months. The Concord Housing Trust proposed a three unit housing development at 129 Old Bedford Road. At this point, Concord is required to fulfill its quota of 40B projects.

Ms. Ackerman said it was stated the developer wants relief on two sections of the zoning bylaw and one outreaching signs...?....Would these reliefs be required under 40B? Mr. Howes answered in the affirmative. The standard the Town has to show is, if we want to stop this project from going forward, very high and detrimental to the health. It is very difficult to stop these unless you can show it is affecting the health and safety of environment and citizens.

Mr. Benincasa asked whether young couples that are graduates of CCHS or work within the Town get advantages in this case such as a lottery. Mr. Howes said this is not required of the applicant. When he was on the Concord Housing Authority, this could be done in developments in which private philanthropy allowed us to buy the land. In that case we could dictate the lottery. Whereas if it were state or federal money, we had to follow state or federal guidelines which precluded us from making sure a Concord resident had a chance. Mr. Benincasa asked the Assistant Town Manager to explore the question of what the downside to the developer would be if they were to go that route for us. It might be an act of good faith on their part to allow this to happen so long as they were receiving whatever the value is they have set on the units to begin with.

VOTE TOWN MEETING SCHEDULE:

Ms. Shapiro felt if the democratic process is to be fully engaged, it must provide time to respond to answer various citizen and committee questions.

The Board said it was important to show the constituents what a no override budget would look like. The public would need to understand there would need to be some belt tightening if this is to occur.

Town Meeting
Schedule

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Susan Bates, Finance Committee, said in terms of the timeframe for budgets, the guidelines process begins in the beginning of October and recommendations will be made at the end of November. So when the coordination meeting takes place, the Selectmen will have this information. Also, a discussion about override or no override will be sketched out. The process is the Town Manager and schools present information to the FinCom, they respond with a preliminary guideline in late October then they come back. Then whether an override is needed is discussed.

Last year during the hearing in February and March, there were CPC hearings and a separate night was added because it was totally new. This year there will be another Finance Committee CPC night which will also include Town capital.

On a motion duly made and seconded, it was unanimously:

VOTED: To approve the amended Town Meeting Schedule as presented.

CITIZEN COMMENTS:

There were no citizen comments.

MISCELLANEOUS:

1. Mr. Howes noted Thoreau School will hold a Grand Opening on Sunday, September 17th from 2:00-4:00 PM. A more formal invitation will be sent to the Board.
2. Ms. Shapiro asked for green cards to be submitted for openings on various committees. The Planning Department's Village Center Planning Process was presented. After discussion, the Board will take this up on July 24th.

COMMITTEE NOMINATIONS:

Ms. Shapiro nominated Anthony Logalbo, Finance Director, as the representative of the Finance Department/ Committee to the **Willard School Building Committee**, term to end May 31, 2009.

COMMITTEE APPOINTMENTS:

On a motion duly made and seconded, it was unanimously:

Citizen
Comments

Miscellaneous

Committee
Nomination

Committee
Appointment

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VOTED: To appoint the following to the **Willard School Building Committee**,
with terms ending May 31, 2009:

Andy Berman, 23 MacMillen Drive
Frank Cannon, 147 Prairie Street
Scott Bates, 52 Indian Springs Road
Theodore Hanselman, 60 Chase Road
Richard Keleher, 460 Powder Mill Road
Pat Nelson, 37 Nimrod Drive
Jerry Wedge – School Committee Representative
Philip Benincasa - Board of Selectmen Representative
Chris Whelan – Town Manager
Brenda Finn – Superintendent of Schools
Pat Fernandes – Willard School Principal
David Anderson – School Facilities Manager

VOTED: To appoint Shirley S. Osepchuk, 248 Deacon Haynes Road, to the
Board of Registrars, term to expire May 31, 2009

COMMITTEE REAPPOINTMENTS:

On a motion duly made and seconded, it was unanimously:

VOTED: To reappoint David Bearg, 20 Darton Street to the **White Pond
Advisory Committee**, term to expire May 31, 2009.

VOTED: To reappoint the following to the **Affordable Housing Committee** with
terms to expire May 31, 2009:

George Xenakis, 55 Gifford Lane
Michael Malouf, 55 Garfield Road
Donald Lashley, 49 Sudbury Road

CITIZEN'S COMMENTS:

There were no citizen comments.

ADJOURNMENT:

On a motion duly made and seconded, it was:

VOTED: To adjourn the Open Session and conclude business for the evening.

Anne D. Shapiro	Aye
Philip H. Benincasa	Aye
Gregory P. Howes	Aye

The meeting adjourned at 8:35 p.m.

Committee
Reappointment

Citizen
Comments

Adjournment

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Respectfully submitted,

Anne Shapiro, Clerk pro tem